

under § 20.2031-7A(c) of this chapter. The trust instrument provides that in the event the trust fund is insufficient to pay both annuities in a given year, the trust fund will be evenly divided between the charitable and private annuitants. The deduction under subparagraph (1) of this paragraph with respect to the charitable annuity will be limited to \$20,000, which is the minimum amount it is evident X will receive.

Example 3. In 1975, D transfers \$65,000 in trust with the requirement that a guaranteed annuity interest (as defined in subparagraph (2)(i) of this paragraph) of \$5,000 a year, payable annually at the end of each year, be paid to Y Charity for a period of 10 years and that a guaranteed annuity interest (as defined in subparagraph (2)(i) of this paragraph) of \$5,000 a year, payable annually at the end of each year, be paid to W, his wife, aged 62, for 10 years or until her prior death. The annuities are to be paid simultaneously, and the remainder is to be paid to D's children. The fair market value of the private annuity is \$33,877 ($\$5,000 \times 6.7754$), as determined pursuant to § 20.2031-7A(c) of this chapter and by the use of factors involving one life and a term of years as published in Publication 723A (12-70). The fair market value of the charitable annuity is \$36,800.50 ($\$5,000 \times 7.3601$), as determined under § 20.2031-7A(c) of this chapter. It is not evident from the governing instrument of the trust or from local law that the trustee would be required to apportion the trust fund between the wife and charity in the event the fund were insufficient to pay both annuities in a given year. Accordingly, the deduction under subparagraph (1) of this paragraph with respect to the charitable annuity will be limited to \$31,123 (\$65,000 less \$33,877 [the value of the private annuity]), which is the minimum amount it is evident Y will receive.

(iv) See paragraph (b)(1) of § 1.170A-4 for rule that the term *ordinary income property* for purposes of section 170(e) does not include an income interest in respect of which a deduction is allowed under section 170(f)(2)(B) and this paragraph.

(4) *Recapture upon termination of treatment as owner.* If for any reason the donor of an income interest in property ceases at any time before the termination of such interest to be treated as the owner of such interest for purposes of applying section 671, as for example, where he dies before the termination of such interest, he shall for purposes of this chapter be considered as having received, on the date he ceases to be so treated, an amount of income equal to (i) the amount of any deduction he was allowed under section 170 for the con-

tribution of such interest reduced by (ii) the discounted value of all amounts which were required to be, and actually were, paid with respect to such interest under the terms of trust to the charitable organization before the time at which he ceases to be treated as the owner of the interest. The discounted value of the amounts described in subdivision (ii) of this subparagraph shall be computed by treating each such amount as a contribution of a remainder interest after a term of years and valuing such amount as of the date of contribution of the income interest by the donor, such value to be determined under § 20.2031-7 of this chapter consistently with the manner in which the fair market value of the income interest was determined pursuant to subparagraph (3)(i) of this paragraph. The application of this subparagraph will not be construed to disallow a deduction to the trust for amounts paid by the trust to the charitable organization after the time at which the donor ceased to be treated as the owner of the trust.

(5) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

Example 1. On January 1, 1970, A contributes to a church in trust a 9-year irrevocable income interest in property. Both A and the trust report income on a calendar year basis. The fair market value of the property placed in trust is \$10,000. The trust instrument provides that the church will receive an annuity of \$500, payable annually at the end of each year for 9 years. The income interest is a guaranteed annuity interest as defined in subparagraph (2)(i) of this paragraph; upon termination of such interest the residue of the trust is to revert to A. By reference to § 20.2031-7A(c) of this chapter, it is found that the figure in column (2) opposite 9 years is 6.8017. The present value of the annuity is therefore \$3,400.85 ($\500×6.8017). The present value of the income interest and A's charitable contribution for 1970 is \$3,400.85.

Example 2. (a) On January 1, 1970, B contributes to a church in trust a 9-year irrevocable income interest in property. Both B and the trust report income on a calendar year basis. The fair market value of the property placed in trust is \$10,000. The trust instrument provides that the trust will pay to the church at the end of each year for 9 years 5 percent of the fair market value of all property in the trust at the beginning of the year. The income interest is a unitrust interest as defined in subparagraph (2)(ii) of

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this paragraph; upon termination of such interest the residue of the trust is to revert to B.

(b) By reference to Table F in §1.664-4(b)(5), the adjusted payout rate is 4.717 percent (5 percent \times 0.943396). The present value of the reversion is \$6,473.75, computed by reference to Table D in §1.664-4A(c), as follows:

Factor at 4.6 percent for 9 years	0.654539
Factor at 4.8 percent for 9 years642292
Difference012247
Interpolation adjustment:	
$4.717\% - 4.6\% / 0.2\% = \times / 0.012247$	
$\times = 0.007164$	
Factor at 4.6 percent for 9 years654539
Less: Interpolation adjustment007164
Interpolated factor647375
Present value of reversion (\$10,000 \times 0.647375) ...	\$6,473.75

(c) The present value of the income interest and B's charitable contribution for 1970 is \$3,526.25 (\$10,000 - \$6,473.75).

Example 3. (a) On January 1, 1970, C contributes to a church in trust a 9-year irrev-

ocable income interest in property. Both C and the trust report income on a calendar year basis. The fair market value of the property placed in trust is \$10,000. The trust instrument provides that the church will receive an annuity of \$500, payable annually at the end of each year for 9 years. The income interest is a guaranteed annuity interest as defined in subparagraph (2)(i) of this paragraph; upon termination of such interest the residue of the trust is to revert to C. C's charitable contribution for 1970 is \$3,400.85, determined as provided in *Example (1)*. The trust earns income of \$600 in 1970, \$400 in 1971, and \$500 in 1972, all of which is taxable to C under section 671. The church is paid \$500 at the end of 1970, 1971, and 1972, respectively. On December 31, 1972, C dies and ceases to be treated as the owner of the income interest under section 673.

(b) Pursuant to subparagraph (4) of this paragraph, the discounted value as of January 1, 1970, of the amounts paid to the church by the trust is \$1,336.51, determined by reference to column (4) of §20.2031-7A(c) of this chapter, as follows:

Annuity	Amount paid	Years from Jan. 1, 1970, to payment date	Discount factor	Discount value as of Jan. 1, 1970
Payment date				
Dec. 31, 1970	\$500	1	0.943396	\$471.70
Dec. 31, 1971	500	2	.889996	445.00
Dec. 31, 1972	500	3	.839619	419.81
Total discounted value				1,336.51

(c) Pursuant to subparagraph (4) of this paragraph, there must be included in C's gross income for 1972 the amount of \$2,064.34 (\$3,400.85 less \$1,336.51).

(d) For deduction by the trust for amounts paid to the church after December 31, 1972, see section 642(c)(1) and the regulations thereunder.

(d) *Denial of deduction for certain contributions by a trust.* (1) If by reason of section 170(f)(2)(B) and paragraph (c) of this section a charitable contributions deduction is allowed under section 170 for the fair market value of an income interest transferred in trust, neither the grantor of the income interest, the trust, nor any other person shall be allowed a deduction under section 170 or any other section for the amount of any charitable contribution made by the trust with respect to, or in fulfillment of, such income interest.

(2) Section 170(f)(2)(C) and subparagraph (1) of this paragraph shall not be construed, however, to:

(i) Disallow a deduction to the trust, pursuant to section 642(c)(1) and the regulations thereunder, for amounts paid by the trust after the grantor ceases to be treated as the owner of the income interest for purposes of applying section 671 and which are not taken into account in determining the amount of recapture under paragraph (c)(4) of this section, or

(ii) Disallow a deduction to the grantor under section 671 and §1.671-2(c) for a charitable contribution made by the trust in excess of the contribution required to be made by the trust under the terms of the trust instrument with respect to, or in fulfillment of, the income interest.

(3) Although a deduction for the fair market value of an income interest in property which is less than the donor's entire interest in the property and which the donor transfers in trust is disallowed under section 170 because